

Exhibit 24

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 IN RE: AETNA UCR LITIGATION ° MDL NO. 2020
4 °
5 ° Master File No.
6 ° 2:07-CV-3541 (FSH)
7

8 *****

9 ORAL DEPOSITION OF
10 FRANK G. TONREY, M.D.
11 February 22nd, 2010

12 *****

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15
16 ORAL DEPOSITION OF FRANK G. TONREY, M.D.,
17 produced as a witness at the instance of the Aetna,
18 and duly sworn, was taken in the above-styled and
19 numbered cause on the 22nd of February, 2010, from
20 9:12 a.m. to 5:13 p.m., before Daniel J. Skur,
21 Notary Public and Certified Shorthand Reporter in
22 and for the State of Texas, reported by stenographic
23 means, at the offices of Gibson Dunn & Crutcher,
24 2100 McKinney Avenue, Suite 1100, Dallas, Texas,
25 pursuant to the Federal Rules of Civil Procedure.

1 Frank G. Tonrey, M.D.

2 P R O C E E D I N G S

3 FRANK G. TONREY, M.D.,

4 having been duly sworn, testified as follows:

5 (9:12 a.m.)

6 EXAMINATION

7 BY MR. DOREN:

8 Q. Good morning, sir.

9 A. Morning.

10 Q. Would you please state your full name
11 for the record?

12 A. Frank G. Tonrey.

13 Q. And what does the G stand for?

14 A. Gerald.

15 Q. And what is your home address?

16 A. [REDACTED]

17 [REDACTED]
18 Q. And are you currently employed?

19 A. Yes.

20 Q. And where do you work?

21 A. I work out of various facilities in the
22 hospitals in the city of Dallas and Plano.

23 Q. And do you work as an anesthesiologist
24 at those facilities?

25 A. I do.

1 Frank G. Tonrey, M.D.

2 A. I believe that's correct, yeah.

3 Q. And while you believe that your billed
4 charges are reasonable, do you agree that there are
5 some doctors who submit billed charges above a
6 reasonable level?

7 A. There may be. I don't know for a fact.

8 Q. And as a class representative in this
9 litigation, do you think that doctors who bill above
10 an accurate usual, customary, and reasonable rate
11 should receive their billed charges?

12 A. I believe they should receive the lesser
13 of the billed charges or an adequate UCR, usual and
14 customary rate.

15 Q. And do you agree that for out-of-network
16 benefits to be available to plan members, there has
17 to be some constraint on a physician's ability to
18 receive coverage for any amount they choose to bill?

19 A. Yes, that's generally the market forces
20 will take care of that.

21 Q. And similarly, recognizing that
22 coverage and -- strike that.

23 And it's because of those market
24 forces that there is a usual, customary, and
25 reasonable rate that can be determined, correct?

1 Frank G. Tonrey, M.D.

2 A. Yes.

3 Q. And it is at that level that a physician
4 should be reimbursed, correct?

5 A. Yes, after just one submission of a
6 claim, not four appeals. That's...

7 Q. Because if a physician could simply bill
8 any amount --

9 A. Correct.

10 Q. -- and receive that amount in insurance
11 coverage, insurers could not continue to provide
12 out-of-network benefits, correct?

13 A. Yes.

14 Q. And you agree that, in general,
15 out-of-network benefits are an attribute that many
16 plan members find to be important, correct?

17 A. They pay higher premiums for it, yes.

18 Q. Do you know how much higher?

19 A. I think it depends on the plan.

20 Q. Do you disagree that 125 percent of
21 local Medicare reimbursement reflects usual,
22 customary, and reasonable rates?

23 A. Yes.

24 Q. Why do you disagree with that?

25 A. Medicare rates are -- for my specialty,

1 Frank G. Tonrey, M.D.

2 Q. Is [REDACTED] your friend?

3 A. I don't remember what her situation is.
4 I think she might have been a very seriously ill
5 lady who had a lot of surgery.

6 Q. And my question right now --

7 A. She's not my friend.

8 Q. And my question is have you ever written
9 off coinsurance obligations for your friends?

10 A. Not to my knowledge. I don't send them
11 a balance bill when they have a discrepancy between
12 what the insurance company will reimburse and I
13 charge.

14 Q. And when you say you don't send them a
15 "balance bill," do you mean you don't send them a
16 bill?

17 A. I don't send them a bill unless it's --
18 yes.

19 Q. So you'll take what the insurance
20 company pays?

21 A. Right.

22 Q. But then as a courtesy or a favor to
23 your friends, you won't bill them for any amount
24 beyond that?

25 A. Correct.

1 COUNTY OF DALLAS)

2 STATE OF TEXAS)

3 I, Daniel J. Skur, Certified Shorthand
4 Reporter and Notary Public in and for the State of
5 Texas, do hereby certify that the facts as stated by
6 me in the caption hereto are true; that there came
7 before me the aforementioned named person, who was
8 by me duly sworn to testify the truth concerning the
9 matters in controversy in this cause; and that the
10 examination was reduced to writing by computer
11 transcription under my supervision; that the
12 deposition is a true record of the testimony given
13 by the witness.

14 I further certify that I am neither
15 attorney or counsel for, nor related to or employed
16 by, any of the parties to the action in which this
17 deposition is taken, and further that I am not a
18 relative or employee of any attorney or counsel
19 employed by the parties hereto, or financially
20 interested in the action.

21 Given under my hand and seal of
22 office on this, the 26th day of February, A.D.,
23 2010.

24
25

Daniel J. Skur
Notary Public, State of Texas
My Commission Expires 7/7/2010

Exhibit 25

1
2 UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF NEW JERSEY

4 -----X
5 DARLERY FRANCO, et al.,

6 Plaintiffs,

7 - against - CASE NO. 07-CV-6039 (SRC) (PS)

8 CONNECTICUT GENERAL LIFE
9 INSURANCE CO., et al.,

10 Defendants.
11 -----X

12 In Re:

13 AETNA UCR LITIGATION
14 MDL NO. 2020

15 Master File No.
16 2:07-CV-3541
17 -----X

18 TRANSCRIPT OF
19 DEPOSITION OF LEONARD A. NELSON, ESQ.

20 TRANSCRIPT of the stenographic
21 notes of the proceedings in the
22 above-entitled matter, as taken by and
23 before TAB PREWETT, a Registered
24 Professional Reporter, a Certified
25 Shorthand Reporter, a Certified LiveNote
Reporter, and Notary Public, held at the
offices of WHATLEY DRAKE & KALLAS, LLC,
1540 Broadway, New York, New York, on
Tuesday, June 22, 2010, commencing at 11:45 a.m.

1 Leonard A. Nelson
2 L E O N A R D A. N E L S O N,
3 doing business at the
4 America Medical Association,
5 515 North State Street,
6 Chicago, Illinois 60654,
7 having been sworn by the notary public to
8 testify to the truth, testified as follows:
9 DIRECT EXAMINATION BY MR. DOREN:

10 Q Would you please state your
11 full name for the record.

12 A Leonard Arthur Nelson.

13 Q And what is your home address?

14 A [REDACTED]
15 [REDACTED] [REDACTED]

16 Q Where are you currently
17 employed?

18 A At the American Medical
19 Association, 515 North State Street,
20 Chicago, Illinois 60654.

21 Q And when did you first go to
22 work for the AMA?

23 A In January of 1998.

24 Q What is your current position?

25 A Senior attorney IV, that's

1 Leonard A. Nelson

2 to 1999?

3 A So that I am -- so that I
4 understand the question, you are asking
5 going back to before 1999, what was the
6 knowledge of the American Medical
7 Association prior to 1999 as to how
8 insurers determined out-of-network
9 payments?

10 Q Yes.

11 A I don't know.

12 MR. AXELROD: Let me also
13 belatedly object to outside of the
14 scope.

15 MR. DOREN: We could debate
16 that, but as long as --

17 MR. AXELROD: I am not
18 instructing him not to answer. The
19 scope objection is on the record.

20 Q When did the AMA first learn
21 that the PHCS database was organized by
22 geo zip?

23 A Either 1999 or 2000.

24 Q Did the AMA know that,
25 historically, some insurers used

1 Leonard A. Nelson
2 compilations of their own claim data to
3 determine out-of-network reimbursement
4 levels?

5 A I think we do know that.

6 Q When did the AMA learn that?

7 A I don't know when we learned
8 that.

9 Q Has the AMA known that
10 historically?

11 MR. AXELROD: Objection to the
12 form.

13 A I mean, what you say, it just
14 seems to me understood generally within the
15 industry. And I just couldn't give you a
16 year. When you say "historically," as
17 counsel says, it's a little vague, so I
18 have trouble anticipating it.

19 Q Has that been something that
20 has been understood generally in the
21 industry throughout your tenure with the
22 AMA?

23 MR. AXELROD: Objection to the
24 form.

25 A I think so, yes.

1 Leonard A. Nelson

2 Q Is that something that you
3 understood to be generally understood in
4 the industry prior to your joining the AMA?

5 MR. AXELROD: Same objection.

6 A I don't know.

7 Q Which reminds me, we should
8 review your work history.

9 Could you please summarize for
10 me your formal education?

11 A Yes, I could.

12 Q Please proceed.

13 A Okay. I graduated from
14 Dartmouth College in 1969 with a degree in
15 physics. That was my area of -- that was
16 my major. I then received a master's
17 degree in physics from the University of
18 Illinois. I received a jurisprudence --
19 doctor of jurisprudence, a JD degree from
20 Harvard Law School in 1974. That was my
21 formal education.

22 Q Can you please summarize your
23 full-time employment since graduating from
24 law school?

25 A Yes, I can. I started at

1 Leonard A. Nelson

2 Q Was the AMA aware of the
3 existence of any aggregated database of
4 billed charge data that was being used by
5 insurers to set reimbursement levels for
6 out-of-network care prior to 1999?

7 A No.

8 Q Did the AMA ever object to
9 insurers using their own claim data to set
10 reimbursement levels for out-of-network
11 claims?

12 A Are you talking about other
13 than filing a lawsuit?

14 Q Which lawsuit are you referring
15 to?

16 A The United Health Care suit.

17 Q Other than filing the United
18 Health Care suit -- well, strike that.

19 Prior to filing the United
20 Health Care suit, did the AMA ever object
21 to insurers using their own claim data to
22 set reimbursement levels for out-of-network
23 claims?

24 A Not that I know of. And you
25 understand I would be in a position to

1 Leonard A. Nelson

2 know.

3 Q In July 2002, in "In Re:
4 Managed Care," the AMA sued Aetna for
5 conspiring in the use of Ingenix to
6 diminish payments, correct?

7 A No. I don't know where you are
8 coming from. I think you are just wrong.

9 (Exhibit No. 485, Document on
10 the caption for MDL number 1334,
11 second page bearing the caption,
12 "Provider Plaintiffs' Second Amended
13 Consolidated Class Action Complaint,"
14 is marked by the reporter for
15 identification.)

16 Q Mr. Nelson, I would like to
17 show you what has been marked as
18 Exhibit 485. It is a document on the
19 caption for MDL number 1334. And on the
20 second page it bears the caption:

21 "Provider Plaintiffs' Second
22 Amended Consolidated Class Action
23 Complaint?"

24 A Thank you.

25 Q And first of all, of course, I

1 Leonard A. Nelson
2 transaction that govern, not what the AMA
3 would like to see in that contract that
4 governs.

5 Q And when you talk about
6 external law, you mean the legal mandates
7 for reimbursement that might apply on some
8 circumstances?

9 A I don't know how to answer that
10 one. I mean, there are all sort of laws
11 that may apply in these situations. There
12 is common law. There are statutes. I
13 don't know how to answer that.

14 Q Right. Directing your
15 attention to page 299, the next topic in
16 your preparation is why UCR is needed and
17 who uses UCR.

18 Do you have that in front of
19 you?

20 A I do.

21 Q And in your opinion, is UCR
22 needed to protect third-party payors
23 against price gougers?

24 A Does "you" mean Leonard Nelson?

25 Q Yes.

1 Leonard A. Nelson

2 A Yes, I think so.

3 Q And how do you, Leonard Nelson,
4 define "price gougers"?

5 A A provider of medical services
6 who submits a price that is a wholly out of
7 line with any reasonable way of determining
8 a fair price for that service.

9 Q And directing your attention --
10 sorry -- strike that.

11 And in your opinion,
12 coverage-based -- I'm sorry --
13 out-of-network coverage based on usual,
14 customary, and reasonable rates is an
15 appropriate way of third-payor payors to
16 protect themselves against price gougers?

17 A I think so.

18 Q And directing your attention to
19 page 333300 --

20 A Yes.

21 Q -- this is entitled:

22 "Typical UCR contractual
23 requirements."

24 Correct?

25 A That is.

1 Leonard A. Nelson

2 Q And in your opinion, is use of
3 the 80th percentile of the usual fees
4 currently charged by physicians of similar
5 training and experience for the same
6 service within the same specific and
7 limited geographical area an appropriate
8 point within a charge data distribution to
9 set out-of-network reimbursement?

10 MR. AXELROD: Objection to the
11 form.

12 A Yes.

13 Q And you also put in parentheses
14 that the 80th percentile is typically used,
15 correct?

16 A That is correct.

17 Q And so, for example, an
18 employer plan sponsor may request that a
19 different percentile be used, correct?

20 A Not only request, but we have
21 to say and agree. I mean, we are not --
22 the contract -- no, you know, the fact that
23 the employer may request it is not
24 sufficient.

25 The fact that that's in the

CERTIFICATE

I, TAB PREWETT, A Registered
Professional Reporter, Notary Public,
Certified LiveNote Reporter, and Certified
Shorthand Reporter, do hereby certify that
prior to the commencement of the
examination LEONARD A. NELSON was sworn by
the notary public to testify the truth, the
whole truth and nothing but the truth. I
DO FURTHER CERTIFY that the foregoing is a
true and accurate transcript of the
testimony as taken stenographically by and
before me at the time, place and on the
date hereinbefore set forth. I DO FURTHER
CERTIFY that I am neither a relative nor
employee nor attorney nor counsel of any of
the parties to this action, and that I am
neither a relative nor employee of such
attorney or counsel, and that I am not
financially interested in the action.

Notary Public

My Commission expires February 9, 2014

Dated: June 25, 2010

Exhibit 26

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF NEW JERSEY
4 MDL NO. 220
5 MASTER FILE NO. 2-07-CV-3541
6
7

8 IN RE: AETNA UCR LITIGATION
9
10

11 -----
12 TRANSCRIPT OF
13 DEPOSITION OF MICHELLE COOPER
14

15 TRANSCRIPT of the stenographic
16 notes of the proceedings in the
17 above-entitled matter, as taken by and
18 before TAB PREWETT, a Registered
19 Professional Reporter, a Certified
20 Shorthand Reporter, a Certified LiveNote
21 Reporter, and Notary Public, held at the
22 Offices of WILENTZ, GOLDMAN & SPITZER P.A.,
23 90 Woodbridge Center Drive, Woodbridge, New
24 Jersey, on Tuesday, January 19, 2010,
25 commencing at 10:20 a.m.

1 Michelle Cooper

2 P R O C E E D I N G S

3 M I C H E L L E C O O P E R,

4 residing at 1 Bruce Path,

5 Short Hills, New Jersey 07078,

6 having been sworn by the notary public to

7 testify to the truth, testified as follows:

8 DIRECT EXAMINATION BY MR. DOREN:

9 Q Could you please state your
10 full name for the record?

11 A Sure, it's Michelle Cooper.

12 Q And while I know you just did
13 it off the record, could you also please
14 state your home address?

15 A Sure, it's [REDACTED]

16 [REDACTED] [REDACTED]

17 Q And what is your date of birth?

18 A [REDACTED].

19 Q Are you currently employed?

20 A Yes.

21 Q Where do you work?

22 A I am self-employed with
23 Coliberate, C-o-l-i-b-e-r-a-t-e, Systems.

24 Q And how long have -- I'm sorry.

25 Coliberate Systems is the name of your

1 Michelle Cooper

2 for that service. Correct?

3 A Correct.

4 Q And do you agree that your
5 health insurer should not be required to
6 pay whatever rate the doctor sets as
7 what -- however it is they value their
8 services?

9 A Sure.

10 Q They should only have to pay,
11 you know, what in broader analysis is a
12 usual, customary, and reasonable rate?

13 A Depends upon how you are going
14 to define "broader."

15 Q I understand. In other words
16 an accurately calculated, usual, customary,
17 and reasonable rate?

18 A Which is not present the way
19 they are calculating.

20 Q I assure you, if I am trying to
21 discuss your allegations about what is or
22 what is not appropriate in current UCR
23 allegations, I will be direct with you.

24 A Okay.

25 Q My question is that:

1 Michelle Cooper

2 You agree that a health insurer
3 should not be bound by whatever rate a
4 provider selects, correct?

5 A Correct.

6 Q And why not?

7 A It's not reasonable.

8 Q It just a unilateral number
9 potentially, correct?

10 A Correct.

11 Q And the health plan that you
12 have enrolled in contemplates not the full
13 billed charges will be paid, but rather a
14 reasonable and customary amount will be
15 paid, correct?

16 A Correct.

17 Q And that's what you expected
18 when you enrolled in it?

19 A Reasonable and customary, yes.

20 Q And that's what you relied upon
21 when you enrolled in the plan?

22 A Correct.

23 Q You did not rely upon receiving
24 whatever rate the provider unilaterally
25 selects?

CERTIFICATE

I, TAB PREWETT, A Registered
Professional Reporter, Notary Public,
Certified LiveNote Reporter, and Certified
Shorthand Reporter, do hereby certify that
prior to the commencement of the
examination MICHELLE COOPER was sworn by
the notary public to testify the truth, the
whole truth and nothing but the truth. I
DO FURTHER CERTIFY that the foregoing is a
true and accurate transcript of the
testimony as taken stenographically by and
before me at the time, place and on the
date hereinbefore set forth. I DO FURTHER
CERTIFY that I am neither a relative nor
employee nor attorney nor counsel of any of
the parties to this action, and that I am
neither a relative nor employee of such
attorney or counsel, and that I am not
financially interested in the action.

Notary Public

My Commission expires February 9, 2014

Dated: January 27, 2010

Exhibit 27

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: AETNA UCR LITIGATION

MDL. No. 2020

This Document Relates To:
ALL CASES

Master Case No.
2:07-3541 (FSH) (PS)

30 (B) (6) DEPOSITION OF AETNA BY:

JAMES D. CROSS, M.D.

DATE: MARCH 23, 2010

HELD AT:

SHIPMAN & GOODWIN, LLP
ONE CONSTITUTION PLAZA
HARTFORD, CONNECTICUT

- - -

Reporter: Sandra V. Semevolos, RMR, CRR, LSR #74

Job No. NJ247694

1 (Deposition commenced at 10:05 a.m.)

2 MR. SIGLER: We will read and sign.

3 JAMES D. CROSS, M.D., of [REDACTED]

4 [REDACTED]
5 [REDACTED], being first duly sworn,

6 deposes and states as follows:

7 DIRECT EXAMINATION BY MR. AXELROD:

8 Q. Good morning. Would you state your name for
9 the record, please?

10 A. James Cross.

11 Q. And what is your home address?

12 A. [REDACTED]
13 [REDACTED]

14 Q. What is your work address?

15 A. 151 Farmington Avenue, in Hartford,
16 Connecticut.

17 Q. So you live in Fort Lauderdale, but you work
18 in Farmington, Connecticut; is that correct?

19 A. Well, I have -- I'm a work-at-home
20 officially.

21 Q. I see.

22 A. But I have a visitor's office here in
23 Hartford, and I use Hartford as my business location
24 so that the mail and everything goes to Hartford.

25 Q. But otherwise, your office is in your home?

1 A. Well, I wouldn't characterize it as whether
2 it's legitimate or not legitimate. I think it's a
3 methodology that's used to help support when there
4 isn't enough occurrences within a geographic region.
5 And based on the references, the methodology that's
6 used to do that derived data, that it's an actuarially,
7 I suppose, or statistically appropriate way to present
8 the data.

9 BY MR. AXELROD:

10 Q. Well, I understand that you wouldn't
11 characterize it that way, but I'm asking you to. I'm
12 asking you how you would characterize, one way or the
13 other, the use of derived data.

14 MR. SIGLER: Same objection.

15 A. I think it's a part of the product, and it's
16 an acceptable component of the product for
17 presentation of how the data comes to us from a use of
18 the data as a reasonable and customary source.

19 BY MR. AXELROD:

20 Q. Acceptable to whom?

21 MR. SIGLER: Same objection.

22 A. Acceptable to Aetna.

23 BY MR. AXELROD:

24 Q. Do you know whether someone at Aetna made
25 any study of derived data and decided that the use of

1 derived data was acceptable to Aetna?

2 A. Not that I know of.

3 Q. So your testimony is that because you think
4 that the use of derived data had been acceptable to
5 Aetna, then that's the basis for your testimony that
6 it's legitimate?

7 MR. SIGLER: Objection,
8 mischaracterizes his testimony and form.

9 A. Well, according to the benefit plan, we are
10 responsible for determining the reasonable and
11 customary charge, so we are actually the ones who have
12 to decide what the legitimate source or the reasonable
13 source or the appropriate source of that reasonable
14 and customary data is, so we purchased that source of
15 reasonable and customary data from Ingenix, and we are
16 aware of their assurances of what the product is about
17 and how it works and what it represents. And in
18 purchasing that, I think we feel that that is an
19 appropriate source for reasonable and customary data.

20 Q. So --

21 A. They --

22 Q. Sorry, go ahead.

23 A. And the fact that there is derived data
24 means that in those circumstances which are unusual, I
25 would say that there is a methodology to do derived

1 is reasonable, is understandable, is comparable with
2 other charges that are submitted for various
3 procedures, that they have some relativity to each
4 other, that any ordinary person would think that given
5 whatever standards there are about what the relative
6 values of a particular procedure are and what the
7 local charges are of a particular procedure, that
8 those amounts are reasonable, rational and
9 understandable and not out of the ordinary.

10 Q. Fair enough. And how does derived data lead
11 to a fee that is comparable with other procedures or
12 with local charges?

13 MR. SIGLER: Objection, form and
14 foundation.

15 A. Honestly, I don't know the specifics of how
16 the derived data are obtained. I can't testify to how
17 that's done.

18 BY MR. AXELROD:

19 Q. So what is the basis, if at all, for your
20 testimony that when Aetna uses derived data, it's
21 making a reasonable reimbursement determination?

22 MR. SIGLER: Same objection.

23 A. Other than what I've already stated, that
24 it's part of the product, and we purchased the
25 product, and we are comfortable with what the product

1 is as it's been purchased and presented.

2 BY MR. AXELROD:

3 Q. What is the definition, in your mind, of
4 "customary"?

5 MR. SIGLER: Objection, calls for a
6 legal conclusion and form.

7 A. Again, I think it's what I stated about
8 reasonable. The benefit language says reasonable and
9 customary, usual and customary. The idea that it's
10 common within a range that one would find acceptable
11 and appropriate and sort of customary within that --
12 in that geography and sort of something that is, you
13 know, sort of generally accepted.

14 BY MR. AXELROD:

15 Q. Do derived data take into account
16 geographical differences?

17 A. I honestly don't know for sure. My
18 understanding was that it's a broader geographic
19 consideration. Other than that, I don't know.

20 Q. Well, you testified when I asked you about
21 the meaning of "customary" that it took into account
22 certain geographical differences or at least
23 geography. That was your testimony.

24 So how would derived data, if at all, be
25 used to take into account geography, which you

1 General.

2 Q. So still today you believe that the Ingenix
3 database is still a legitimate tool for making
4 reimbursement determinations?

5 MR. SIGLER: Objection, calls for a
6 legal conclusion. Objection, lack of foundation, form
7 and scope.

8 A. We continue to use the Ingenix database as
9 our source for usual and customary data, and we
10 consider it an appropriate source, as we have always
11 thought.

12 BY MR. AXELROD:

13 Q. Why did you direct that The Aetna Fee
14 Profile be terminated?

15 A. It's my belief that if you are going to use
16 charge data, the more charge data you have available
17 to the database, the more legitimate or more accurate
18 the calculations are in terms of a percentile. So
19 Aetna's membership in a particular geography may be
20 minimal. We may have a significant membership in
21 certain geographic areas and not so much in others.

22 So the whole point of having a third party
23 collect the charge data and pool it makes the pool of
24 data, the end number, so to speak, larger, so that
25 there is more likely to be true charge data, nine and

1 greater, in each geographic region if it's pooled
2 information.

3 So if you put Blue Cross/Blue Shield data
4 and the five largest insurance companies' data and
5 another 100 smaller companies' data into a pool, and
6 you derive a database that that's how the legitimate
7 charge data or the real charge data are accumulated,
8 then you get a, in my mind, a more accurate, a better
9 reflection of that pool of charge data.

10 So when we use an Aetna specific profile,
11 it's more limited in terms of what our geographic
12 experience or data would show. So in some instances,
13 because we have a fairly large membership, and we have
14 a significant membership in certain geographies, you
15 know, the pool of data might be perfectly legitimate,
16 or perfectly reasonable to use, but it's more limited
17 than what a third-party pool of information would
18 have. So I think it's more important for us to use
19 the larger database for charge data than just our own
20 internal data.

21 It's rare that we don't have to -- it's rare
22 that we don't find the data in the Ingenix database.
23 And for those unusual circumstances where there is no
24 data, I think the better process for us is to do the
25 comparisons and do the, sort of a manual look at

1 what's being submitted and what's being billed and
2 what we can compare it to than it is to just use the
3 data that's within Aetna itself.

4 So the progression of how we've been moving,
5 in terms of what data we use, is to use the Ingenix
6 database.

7 Q. When you nonetheless made reimbursement
8 determinations using The Aetna Fee Profile, did you do
9 so where there were less than nine data points?

10 MR. SIGLER: Objection, lack of
11 foundation.

12 A. You know, I don't know the detail on The
13 Aetna Fee Profile as to what the number would need to
14 be to use it, but again, where we felt comfortable
15 with that data in terms of its frequency, we did use
16 it. I would not be able to tell you the detail of
17 that.

18 BY MR. AXELROD:

19 Q. When you said feel comfortable with using
20 it, what was the basis for Aetna feeling comfortable
21 with using The Aetna Fee Profile data for a particular
22 reimbursement?

23 MR. SIGLER: Objection, lack of
24 foundation.

25 A. I would just be speculating if I told you

C E R T I F I C A T E

STATE OF CONNECTICUT

I, SANDRA V. SEMEVOLOS, a Registered Merit Reporter/Notary Public within and for the State of Connecticut, do hereby certify that I reported the deposition of JAMES D. CROSS, M.D. on MARCH 23, 2010, at the offices of SHIPMAN & GOODWIN, LLP, ONE CONSTITUTION PLAZA, HARTFORD, CONNECTICUT.

I further certify that the above-named deponent was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth concerning his/her knowledge in the matter of the case IN RE: AETNA UCR LITIGATION, This Document Relates To: ALL CASES, now pending in the UNITED STATES DISTRICT COURT, for the DISTRICT OF NEW JERSEY.

I further certify that the within testimony was taken by me stenographically and reduced to typewritten form under my direction by means of COMPUTER ASSISTED TRANSCRIPTION; and I further certify that said deposition is a true record of the testimony given by said witness.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

WITNESS my hand and seal this 1st day of April, 2010.

Sandra V. Semevolos, RMR/CRR
Notary Public
My Commission Expires: September 30, 2010
License Registration Number: 74

Exhibit 28

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: AETNA UCR LITIGATION

MDL. No. 2020

This Transcript Relates To:
ALL CASES

Master Case No.
2:07-3541 (FSH) (PS)

DEPOSITION OF RODERICK LEE MARTIN

DATE: JULY 1, 2010

HELD AT:

MURTHA CULLINA, LLP

CITYPLACE I, 185 ASYLUM STREET

HARTFORD, CONNECTICUT

- - -

Reporter: Sandra V. Semevolos, RMR, CRR, LSR #74

Job No. NJ265408

(Deposition commenced at 10:04 a.m.)

RODERICK LEE MARTIN of [REDACTED]

[REDACTED]
being first duly sworn, deposes and states
as follows:

DIRECT EXAMINATION BY MR. GUGLIELMO:

Q. Good morning.

A. Good morning.

Q. My name is Joseph Guglielmo. I'm an
attorney with the law firm of Scott & Scott. I
represent one of the Plaintiffs in the action today.

Can you please state your full name and
address for the record?

A. Roderick Lee Martin. I live at [REDACTED]

[REDACTED].

Q. Mr. Martin, I'm going to be asking you some
questions today. If you don't understand a question
that I ask, please indicate, otherwise I'll assume you
understand the questions.

I need you to provide verbal responses to
the questions that I ask so that the court reporter
can take down the information. Likewise, with respect
to my questions, I'd just appreciate if you could let
me finish the question before you answer, and I'll
also oblige and let you finish your response. This

1 recollection as to what the output was or the results
2 were.

3 BY MR. GUGLIELMO:

4 Q. And do you know whether you ever provided
5 that report to the extent it was run to Ms. Jensen?

6 MS. WALSH: Objection.

7 A. I don't know.

8 MR. GUGLIELMO: Mr. Martin, I'm going
9 to mark as Exhibit 7 a document bearing Bates Numbers
10 AET 00905155 through 159.

11 (Exhibit 7, Document bearing Bates
12 Numbers AET 00905155 through AET
13 00905159, marked for identification.)

14 MR. GUGLIELMO: For the record, the top
15 of the first page of this document is an e-mail from
16 Deborah Justo to Beth Lilick, Roderick Martin dated
17 March 1, 2005.

18 (Pause.)

19 BY MR. GUGLIELMO:

20 Q. Mr. Martin, have you had a chance to take a
21 look at Exhibit 7?

22 A. Yes.

23 Q. With respect to the subject matter of the
24 e-mail string, re R&C savings, do you have an
25 understanding of what is being discussed in this

1 e-mail string?

2 MS. WALSH: Objection.

3 A. Yes.

4 BY MR. GUGLIELMO:

5 Q. Can you tell me what your understanding is?

6 A. There was, as mentioned in the third e-mail
7 from the bottom, second to last page, the claim
8 department cost containment report, that was a report
9 that was in place, had been in place, as noted here,
10 for many, many years that was attempting to capture
11 what we referred to as R&C savings, meaning reductions
12 from billed charges to R&C payment amounts.

13 There was, based on this request for
14 proposal, information for a proposal, something from
15 Hewitt. I don't recall specifically what it related
16 to, but they were providing this information and
17 basically we caught wind of it. There was some
18 questioning about the data, the results, the
19 year-to-year change, and through the chain, I guess,
20 it got to me, and I got involved because I was running
21 also some R&C savings reports, I believe, at the time,
22 again, attempting to capture the R&C savings. But the
23 issue here is that the reports that had been in
24 existence for many years, apparently there was no
25 owner, and they basically became outdated and were

1 providing what we thought was inaccurate data,
2 commingling savings from a few different policies in
3 place as opposed to it just being R&C related.

4 Q. Is it your understanding in or about the
5 2005 time frame that you were creating R&C savings
6 reports?

7 MS. WALSH: Objection.

8 A. I was creating a savings report that
9 incorporated savings from a number of policies,
10 including R&C.

11 BY MR. GUGLIELMO:

12 Q. And so specifically, what categories of
13 savings were you including in the savings report that
14 you were creating in or about 2005?

15 MS. WALSH: Objection.

16 A. Generally it was savings related to, as
17 discussed earlier, reimbursement policies and clinical
18 policies.

19 BY MR. GUGLIELMO:

20 Q. And would R&C savings be categorized as a
21 reimbursement policy?

22 MS. WALSH: Objection.

23 A. Loosely, yes.

24 BY MR. GUGLIELMO:

25 Q. Could it also be categorized as a clinical

C E R T I F I C A T E
STATE OF CONNECTICUT

I, SANDRA V. SEMEVOLOS, a Registered Merit Reporter/Notary Public within and for the State of Connecticut, do hereby certify that I reported the deposition of RODERICK LEE MARTIN on JULY 1, 2010, at the offices of MURTHA CULLINA, LLP, CITYPLACE I, 185 ASYLUM STREET, HARTFORD, CONNECTICUT.

I further certify that the above-named deponent was by me first duly sworn to testify to the truth, the whole truth and nothing but the truth concerning his/her knowledge in the matter of the case IN RE: AETNA UCR LITIGATION, This Transcript Relates To: ALL CASES, now pending in the UNITED STATES DISTRICT COURT, for the DISTRICT OF NEW JERSEY.

I further certify that the within testimony was taken by me stenographically and reduced to typewritten form under my direction by means of COMPUTER ASSISTED TRANSCRIPTION; and I further certify that said deposition is a true record of the testimony given by said witness.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of the action.

WITNESS my hand and seal this 8th day of July, 2010.

Sandra V. Semevolos, RMR/CRR
Notary Public
My Commission Expires: September 30, 2010
License Registration Number: 74

Exhibit 29

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
MDL NO. 220
MASTER FILE NO. 2-07-CV-3541

IN RE: AETNA UCR LITIGATION

CONFIDENTIAL TRANSCRIPT OF
DEPOSITION OF SHARON SMITH

TRANSCRIPT of the stenographic
notes of the proceedings in the
above-entitled matter, as taken by and
before TAB PREWETT, a Registered
Professional Reporter, a Certified
Shorthand Reporter, a Certified LiveNote
Reporter, and Notary Public, held at the
Offices of WILENTZ, GOLDMAN & SPITZER P.A.,
90 Woodbridge Center Drive, Woodbridge, New
Jersey, on Thursday, January 21, 2010,
commencing at 10:20 a.m.

1 Sharon Smith

2 P R O C E E D I N G S

3 S H A R O N S M I T H ,

4 residing at [REDACTED]

5 [REDACTED],

6 having been sworn by the notary public to
7 testify to the truth, testified as follows:

8 DIRECT EXAMINATION BY MR. EVANS:

9 Q Can you please state your full
10 name for the record?

11 A Sharon Lee Smith.

12 Q What is your current address?

13 A [REDACTED]

14 [REDACTED]

15 Q Could you provide us with your
16 date of birth, please?

17 A [REDACTED]

18 Q Have you ever had your
19 deposition taken before?

20 A No.

21 Q I would like to just explain
22 some of the procedures that we follow.
23 First of all, you have been sworn under
24 oath.

25 Do you understand that?

1 Sharon Smith

2 specialist, so I have no one to compare his
3 prices to.

4 Q Does Dr. [REDACTED] break down
5 for you what you owe as a co-pay and the
6 deductible or coinsurance for each
7 procedure?

8 A Well, what I see is from Aetna,
9 when they say, you know, how much they will
10 pay and then they won't pay.

11 Dr. [REDACTED] I know we owe
12 him thousands and thousands of dollars.
13 And he understands that my husband is -- we
14 are on social security. And, you know, I
15 try to pay as much as I can if we get
16 extra.

17 But Dr. [REDACTED] is a very
18 kind and compassionate and understanding
19 doctor that cares very much about his
20 patients. And he works with us on it.

21 Q Does he send you bills for the
22 amounts that he says you owe?

23 A No, I don't recall receiving a
24 bill.

25 Q And does he make attempts to

1 Sharon Smith

2 collect the amounts he says he's owed for
3 instance, through collection agencies?

4 A Never. That is out of
5 character for him.

6 Q Besides Dr. [REDACTED] are
7 there any other out-of-network providers
8 for whose service you are seeking to get
9 paid in this litigation?

10 A I don't have any other
11 out-of-network doctors, no.

12 MR. EVANS: I am going to take
13 a brief break and see what else we are
14 going to want to ask you and probably
15 wrap it up quickly after that.

16 (There was a discussion and
17 break off the record.)

18 (Exhibit No. Aetna 50, Second
19 Joint Consolidated Amended Class
20 Action Complaint and Demand for Jury
21 Trial, is marked by the reporter for
22 identification.)

23 Q We can go back on the record.

24 Ms. Smith, I am passing to you
25 what has been marked as Aetna Exhibit 50.

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CERTIFICATE

I, TAB PREWETT, A Registered
Professional Reporter, Notary Public,
Certified LiveNote Reporter, and Certified
Shorthand Reporter, do hereby certify that
prior to the commencement of the
examination SHARON SMITH was sworn by the
notary public to testify the truth, the
whole truth and nothing but the truth. I
DO FURTHER CERTIFY that the foregoing is a
true and accurate transcript of the
testimony as taken stenographically by and
before me at the time, place and on the
date hereinbefore set forth. I DO FURTHER
CERTIFY that I am neither a relative nor
employee nor attorney nor counsel of any of
the parties to this action, and that I am
neither a relative nor employee of such
attorney or counsel, and that I am not
financially interested in the action.

Notary Public
My Commission expires February 9, 2014
Dated: January 30, 2010

Elisa Dreier Reporting Corp. (212) 557-5558
950 Third Avenue, New York, NY 10022

Exhibit 30

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
MDL NO. 220
MASTER FILE NO. 2-07-CV-3541

IN RE: AETNA UCR LITIGATION

TRANSCRIPT OF
DEPOSITION OF DARLERY FRANCO

TRANSCRIPT of the stenographic
notes of the proceedings in the
above-entitled matter, as taken by and
before TAB PREWETT, a Registered
Professional Reporter, a Certified
Shorthand Reporter, a Certified LiveNote
Reporter, and Notary Public, held at the
Offices of WILENTZ, GOLDMAN & SPITZER P.A.,
90 Woodbridge Center Drive, Woodbridge, New
Jersey, on Friday, January 22, 2010,
commencing at 10:20 a.m.

1 Darlery Franco

2 P R O C E E D I N G S

3 D A R L E R Y F R A N C O,

4 residing at [REDACTED],

5 [REDACTED],

6 [REDACTED] [REDACTED],

7 having been sworn by the notary public to
8 testify to the truth, testified as follows:

9 DIRECT EXAMINATION BY MR. DOREN:

10 Q Good morning, Ms. Franco.

11 A Good morning.

12 Q Could you please state your
13 complete name for the record?

14 A Darlery Franco, Dar-ledy or
15 Darlery Franco.

16 Q Your full name is Darlery --

17 A It's just a Spanish versus
18 English pronunciation.

19 Q Rolling the R, got it. Thank
20 you. What's your home address?

21 A It's [REDACTED],

22 [REDACTED] [REDACTED].

23 Q What is your date of birth?

24 A [REDACTED] [REDACTED].

25 Q And as we were introduced off

1 Darlery Franco

2 the day of surgery?

3 A I don't recall.

4 Q You don't know whether you had
5 or not?

6 A No, I don't.

7 Q Have you met Dr. Valauri again
8 since your surgeries?

9 A No.

10 Q So the only time you would have
11 seen him would have almost literally been
12 in the surgical theater?

13 A Yes, the hospital.

14 Q Has Dr. Valauri sent any bills
15 to you?

16 A I think they have been part of
17 Dr. Rose's bills.

18 Q So to the extent Dr. Valauri
19 has billed any amounts to you, it would
20 have been included in Dr. Rose's bills?

21 A I think so. Yes.

22 Q And if it wasn't included in
23 Dr. Rose's bills, then Dr. Valauri has not
24 billed you any amounts?

25 MR. MARCY: Objection to the

1 Darlery Franco

2 form. You can answer the question.

3 Q Let me re-ask the question.

4 Other than what might be
5 included in Dr. Rose's invoices, are you
6 aware of any other bills being sent to you
7 by Dr. Valauri?

8 A No, I'm not.

9 Q Have you paid Dr. Valauri any
10 money related to either/or any surgery in
11 which he assisted Dr. Rose?

12 A I never met with his office
13 directly. Any additional payments I made,
14 I made through Dr. Rose's offices; and I'm
15 not sure how they were applied.

16 Q Whether Dr. Rose shared some of
17 that money with Dr. Valauri.

18 A Correct.

19 Q But, again, unless he did --
20 you haven't made any payments to
21 Dr. Valauri, correct?

22 A Correct.

23 Q Ms. Franco, I would like to
24 show you what has been marked as Aetna
25 Exhibit 120. It's a single-page document

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CERTIFICATE

3

I, TAB PREWETT, A Registered

4

Professional Reporter, Notary Public,

5

Certified LiveNote Reporter, and Certified

6

Shorthand Reporter, do hereby certify that

7

prior to the commencement of the

8

examination DARLERY FRANCO was sworn by the

9

notary public to testify the truth, the

10

whole truth and nothing but the truth. I

11

DO FURTHER CERTIFY that the foregoing is a

12

true and accurate transcript of the

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testimony as taken stenographically by and

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before me at the time, place and on the

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date hereinbefore set forth. I DO FURTHER

16

CERTIFY that I am neither a relative nor

17

employee nor attorney nor counsel of any of

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the parties to this action, and that I am

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neither a relative nor employee of such

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attorney or counsel, and that I am not

21

financially interested in the action.

22

Notary Public

23

My Commission expires February 9, 2014

24

Dated: January 31, 2010

25